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Annual Report 2019 - Turkey [EUR 01/2098/2020]

The crackdown on real or perceived dissent continued in 2019, despite the end of the two-year-long state of emergency in July 2018. Thousands of people were held in lengthy and punitive pre-trial detention, often without any credible evidence of their having committed any crime recognizable under international law. There were severe restrictions on the rights to freedom of expression and peaceful assembly and people considered critical of the current government – in particular journalists, political activists and human rights defenders – were detained or faced trumped-up criminal charges. The authorities continued to arbitrarily ban demonstrations and use unnecessary and excessive force to disperse peaceful protestors. There were credible reports of torture and enforced disappearances. Turkey forcibly returned Syrian refugees, while continuing to host more refugees than any other country.

Background

Between January and May, thousands of prisoners joined parliamentarian Leyla Güven on hunger strike to demand that armed Kurdistan Workers' Party leader Abdullah Öcalan be allowed to receive visits from his family and lawyers. The hunger strikers and those who took solidarity actions in their support were criminalized and many were prosecuted under anti-terrorism laws.

The result of the March municipal elections in Istanbul was annulled on spurious grounds by the Supreme Election Board following the victory of the main opposition Republican People's Party (CHP) candidate. In June, he won the re-run of the election with an increased majority. Elected mayors in 32 municipalities representing the leftist, Kurdish-rooted Peoples' Democracy Party (HDP) were removed from office on spurious grounds and replaced with unelected civil servants. The government cited ongoing terrorism-related investigations and prosecutions for their removal. At the end of the year, 18 remained in pre-trial detention.

On 9 October, Turkey launched a military offensive against Kurdish forces in north-east Syria ("Operation Peace Spring") with the stated aim of establishing a 32km-deep border "safe zone". The operation, conducted by the Turkish military together with allied Syrian armed groups, effectively ended on 22 October, amid evidence of war crimes.

In the last quarter of the year, a judicial reform package was passed by Parliament. The reforms failed to address the structural flaws in a judiciary under extreme political pressure or to end unfair and politically motivated prosecutions and convictions.[i]

Freedom of expression

Criminal investigations and prosecutions under anti-terrorism laws and punitive pre-trial detention continued to be used, in the absence of evidence of any criminal wrongdoing, to silence real or perceived dissent. The courts blocked online content and criminal investigations were launched against hundreds of social media users. In August, a new regulation came into effect that requires internet broadcasting platforms to apply for licenses to the Radio and Television Supreme Council (RTÜK). The content of the platforms will be monitored by the RTÜK, expanding its censorship powers over online content.

At least 839 social media accounts were investigated for allegedly “sharing criminal content” related to “Operation Peace Spring”. Hundreds of people were taken into police custody and at least 24 were remanded in pre-trial detention.[ii]

Journalists

Dozens of journalists and other media workers remained in prison either in pre-trial detention or serving a custodial sentence. Some of those investigated and prosecuted under anti-terrorism laws were convicted and sentenced to years of imprisonment; their peaceful journalistic work presented as evidence of a criminal offence.

On 5 July, the Supreme Court of Appeals overturned the first instance court’s conviction of journalists Ahmet Altan and Nazlı Ilıcak for “attempting to overthrow the constitutional order”. In November, they were convicted of “knowingly and willingly assisting a terrorist organization, without being a member” following a re-trial and sentenced to prison terms of 10 years and six months and eight years and nine months respectively.[iii] Both were released on 4 November pending appeal. However, Ahmet Altan was re-arrested on 12 November following a prosecution appeal against his release. He remained in Silivri Prison at the end of the year.

Journalists have also faced intimidation when covering protests. Zeynep Kuray and İrfan Tunççelik, were taken into police custody on 10 May 2019 while covering protests in Istanbul held in solidarity with prison hunger strikers. They were released on bail on 13 May pending criminal investigation. Hakan Demir, the digital services manager of *Birgün* daily newspaper, and Fatih Gökhan Diler, the managing editor of the news website *Diken*, were detained on 10 October in relation to news articles about “Operation Peace Spring”, which did not contain language inciting violence or any other content that may be considered criminal. Both were released later the same day and banned from travelling overseas pending criminal investigations. On 27 October, lawyer and columnist Nurcan Kaya was detained at Istanbul airport in connection with an

investigation launched against her for “inciting enmity or hatred” for a tweet criticizing “Operation Peace Spring”. She was released the same day but subsequently banned from travelling abroad pending the outcome of the investigation.

Human rights defenders

Dozens of human rights defenders faced criminal investigations and prosecutions and were held in police custody or imprisoned for their human rights work.

The trial of the 11 human rights defenders in the Büyükada case, including the former chair, ex-director and several members of Amnesty Turkey as well as women’s and equality advocates continued in 2019 on baseless charges of “membership of a terrorist organization”. If convicted they could face up to 15 years’ imprisonment.[iv]

Civil society leader Osman Kavala and 15 other civil society figures faced charges of “attempting to overthrow the government or prevent it from performing its duties” for their alleged role in “directing” the Gezi Park protests of 2013. If convicted they could face life imprisonment without parole. On 10 December, the European Court of Human Rights ruled that Osman Kavala’s extended pre-trial detention lacked reasonable suspicion and was carried out with the ulterior purpose of reducing him to silence, calling for his immediate release. By the end of the year, he had been held in Silivri high security prison for over two years. His co-defendant Yiğit Aksakoğlu was released on bail at his first trial hearing in June after seven months in prison.[v]

Human rights lawyer Eren Keskin remained at risk of imprisonment as a result of over 140 separate prosecutions for her past role as symbolic editor-in-chief of the now closed Kurdish daily newspaper *Özgür Gündem*. In October, her home was raided and she was questioned by the Istanbul Security Directorate Anti-Terrorism Branch for sharing posts on social media criticizing “Operation Peace Spring”.

Politicians and activists

In July, a Constitutional Court overturned the convictions of ten academics of “making propaganda for a terrorist organization” for signing a peace petition in 2016 criticizing indefinite curfews and security operations in southeastern Turkey. Hundreds more on trial for their support of the petition were acquitted following this decision, while others continued to face charges despite the Constitutional Court ruling that the charges violated the right to freedom of expression.

In September, food engineer and dismissed academic Dr Bülent Şık was convicted of “disclosing classified information” and sentenced to 15 months’ imprisonment for a series of articles exposing the presence of carcinogenic pesticides and other toxins in agricultural products and water. His appeal against the conviction was pending at the end of the year.[vi]

Two former co-chairs of the Peoples’ Democratic Party (HDP), Selahattin Demirtas and Figen Yüksekdağ, remained imprisoned, convicted of terrorism-related charges which, in the absence of credible evidence, were largely based on their public speeches. 20 HDP-affiliated elected mayors of municipalities where trustees were appointed by the state, were remanded in pre-trial detention since municipal elections in March. 18 remained in pre-trial detention at the end of the year.

In September, Istanbul Provincial Chairperson of the main opposition Republican People's Party (CHP), Canan Kaftancıoğlu, was sentenced to nine years and eight months in prison for "insulting the President", "insulting a public official because of his/her duty", "provoking people into enmity and hatred" and "propaganda for a terrorist organization."

Freedom of assembly

Blanket bans on all assemblies were issued in various cities across the country without any individual assessment of the need and proportionality of such measures. Police violently broke up a number of peaceful protests and scores of peaceful protesters faced criminal investigations and prosecutions on charges including “propaganda for a terrorist organization”, “participation in an unlawful assembly” and “resisting police”.

Several provincial governors continued to use extraordinary powers contained in a law introduced after the end of the state of emergency to restrict the right to peaceful assembly.

A blanket and indefinite ban on all lesbian, gay, bisexual, transgender and intersex (LGBTI) events imposed by the Ankara governorate in November 2017 was finally lifted in April 2019 following a court order, after which LGBTI events were banned individually. The student Pride march at the Middle East Technical University (METU) in Ankara in May was banned by the university management and broken up by police using unnecessary and excessive force. Blanket bans were issued by İzmir, Antalya and Mersin governorates in June 2019 to prevent Pride week events taking place. The Istanbul Pride march was banned for the fifth year in a row.[vii]

In March, authorities banned the International Women’s Day March in Istanbul just before it took place. Police used tear gas and other excessive force to disperse thousands of peaceful participants. In November police in Istanbul attacked hundreds of women protestors who had gathered for the International Day for the Elimination of Violence against Women with tear gas and plastic bullets, and a criminal investigation was opened against 25 participants of a “Las Tesis” protest in İzmir. In December, police dispersed the “Las Tesis” protest in Istanbul with excessive use of force and detained six participants who were released the following day; police in Antalya prevented around 100 women from holding a “Las Tesis” protest.

Blanket bans were imposed on assemblies expressing solidarity with those on hunger strike between November 2018 and May 2019[viii] as well as those protesting against the removal of elected mayors from office and against “Operation Peace Spring”.

The peaceful gatherings of the “Saturday Mothers”, a group that since the mid-1990s has held weekly vigils in Galatasaray Square for victims of enforced disappearances, remained subject to the ban imposed in August 2018 when they were removed with unnecessary and excessive use of force. A blanket ban remains imposed on all protests in the square.

University students continued to be prosecuted for participating in peaceful protests. These included 30 students from Boğaziçi University peacefully protesting against Turkey’s military involvement in Afrin in Syria and four students from the Middle East Technical University (METU) displaying a banner depicting a caricature of President Erdoğan during the university’s graduation ceremony. Both prosecutions began in 2018 and were continuing at the end of the year. Eighteen students and a member of academic staff from METU faced prosecution under the Law on Meetings and Demonstrations for their alleged participation in the banned Pride march in May.

Right to work and freedom of movement

More than 115,000 of the 129,411 public sector workers – including academics, soldiers, police officers, teachers and doctors – arbitrarily dismissed by emergency decree following the 2016 coup attempt remained barred from working in the public sector and were denied passports. Many workers and their families have experienced destitution as well as tremendous social stigma, having been listed in the executive decrees as having links to “terrorist organizations”. A commission of inquiry set up to review their appeals before they could seek judicial review, assessed 98,300 of the 126,300 applications it received and rejected 88,700 of them.

A law adopted in 2018 (Law No. 7145) that allows dismissal from public service to be extended for a further three years on the same vague grounds of alleged links to “terrorist organizations” was used by the Council of Judges and Prosecutors to dismiss at least 16 judges and 7 prosecutors during the year, further undermining the independence and integrity of the judicial system.

Several cases of dismissal from public service remained pending before the European Court of Human Rights at the end of the year. These include the cases of Hamit Pişkin, a civil servant dismissed from his post and three dismissed academics – Alphan Telek, Edgar Şar and Zeynep Kılıncım – who had had their passports cancelled and been banned from public service following their signing a petition criticizing security operations in southeastern Turkey .

Torture and other ill-treatment

Credible allegations of torture and other ill-treatment continued to be reported.

In Urfa, eastern Turkey, men and women who were detained in May after an armed clash between security forces and the armed Kurdistan Workers' Party (PKK) reported, through their lawyers, that they had been tortured including with electric shocks to genitals.

Lawyers reported that some of the former Ministry of Foreign Affairs officials detained in Ankara Security Directorate in May accused of “membership of a terrorist organization, aggravated fraud and forgery for terrorism purposes”, were stripped naked and threatened with being raped with batons.

In both cases, lawyers reported that their clients did not have access to a confidential consultation with a doctor.

Enforced disappearances

Six men, accused of links with the Fethullah Gülen movement who went missing in February, suspected of having been the victims of enforced disappearance, resurfaced in police detention five to nine months after their disappearance. The authorities did not provide any information to the public or the families of the men about the circumstances surrounding their disappearance or how five came to find themselves in the Anti-Terrorism Branch of the Ankara Police Headquarters and one in the Antalya Police Headquarters months after their disappearance. The six men were reported by their families to have lost weight, be very pale and nervous. The men reportedly did not disclose what had happened to them during the months they were disappeared. Following up to 12 days in police custody, they were all remanded in pre-trial detention on terrorism charges following court hearings without the knowledge of their lawyers or families.

The fate and whereabouts of a seventh man, Yusuf Bilge Tunç, who disappeared in August under similar suspicious circumstances remained unknown at the end of the year.

Refugees and asylum-seekers

Turkey continued to host more refugees and asylum-seekers than any other country, with over 3.6 million refugees from Syria and about 400,000 refugees and asylum-seekers from other countries.

In 2019, however, Syrians refugees faced increased difficulties in the context of deepening political polarization and a worsening economic outlook in the country, contributing to growing public criticism and intolerance towards the Syrian population.

The 2016 European Union-Turkey Statement, which contributes funds towards Turkey's hosting of refugees in exchange for – among other things – Turkey's cooperation in preventing refugees and asylum-seekers from fleeing onwards to the European Union, remained operational. As of 30 September, about €2.57 billion of the total €6 billion promised had been disbursed.

Between July and October, at least 20 Syrians were forcibly and unlawfully returned to northwestern Syria, where they faced a real risk of serious human rights violations.^[ix] No official figures were available to estimate the number of people forcibly deported, but based on the statements received by Amnesty International, returns during this period affected dozens of people each time, suggesting that the total number forcibly returned was at least in the hundreds. Reports indicate that Turkish police beat, threatened or misled Syrians to coerce them into signing “voluntary return” forms. This occurred ahead of Turkey's military incursion into northeastern Syria in October. Allegations of *refoulement* (i.e. forced return to a country or territory where persecution is likely) of Syrians were officially denied by authorities, who insisted that a total of 315,000 Syrians had returned “voluntarily”.

Migrants and asylum-seekers faced arbitrary detention and risked *refoulement* at Turkey's airports, where they did not have effective access to asylum procedures or assistance. In January, a man was detained arbitrarily in an Istanbul airport and forcibly deported to Egypt, where he was held in incommunicado detention and risked execution. In May, a Palestinian asylum-seeker from Syria was arbitrarily held for weeks in the new Istanbul Airport and attempts were made to deport him to Lebanon, with the risk of chain *refoulement* to Syria.^[x]

[i] Turkey: ‘Judicial reform’ package is a lost opportunity to address deep flaws in the judicial system (EUR 44/1161/2019)

[ii] Turkey: ‘We can’t complain’ – Turkey’s continuing crackdown on dissent over its military operation ‘Peace Spring’ in northeast Syria (EUR 44/1335/2019)

[iii] Turkey: A dark day for press freedom in politically-motivated trial injustice (News story, 12 November)

[iv] Turkey: Judicial farce must end with acquittal of human rights defenders (<https://www.amnesty.org/en/latest/news/2019/10/turkey-judicial-farce-must-end-with-acquittal-of-human-rights-defenders/>) (News story, 8 October)

[v] Turkey: 700 days on, Osman Kavala must be released and charges against him and 15 others drop (<https://www.amnesty.org/en/latest/news/2019/10/turkey-700-days-on-osman-kavala-must-be-released-and-charges-against-him-and-15-others-dropped/>) (News story, 7 October)

[vi] Turkey: Charges against whistleblower who exposed public health dangers must be dropped (<https://www.amnesty.org/en/latest/news/2019/09/turkey-charges-against-whistleblower-who-exposed-public-health-dangers-must-be-dropped/>) (News Story, 25 September)

[vii] Turkey: Farcical criminal charges against students who celebrated Pride must be dropped (<https://www.amnesty.org/en/latest/news/2019/11/turkey-farcical-criminal-charges-against-students-who-celebrated-pride-must-be-dropped/>) (News story, 11 November)

[viii] Turkey: Hunger strikes – Rights violations faced by prisoners on hunger strikes and those protesting in solidarity (EUR 44/0835/2019)

[ix] Turkey: Sent to a war zone – Turkey's illegal deportations of Syrian refugees (EUR 44/1102/2019)

[x] Turkey: Palestinian held in airport risks deportation – Mohamed Ajlani Younes (EUR 44/0670/2019)

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